

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 2:06-CV-46-F

MERCEDALIA HERNANDEZ GARCIA; )  
MIRELDA GARCIA DOMINGUEZ; )  
MARELI CUPIL ZAPATA; MAIRA )  
ZAPATA ARIAS; YAIMI CUPIL ZAPATA;) )  
and JUAN CUPIL ARIAS; Individually and )  
on behalf of themselves and all others )  
similarly situated, )

Plaintiffs, )

v. )

FROG ISLAND SEAFOOD, INC.; and )  
ROBERT D. WHITE ; and Janice )  
WHITE HARRIS, )

Defendants. )

ORDER

This matter is before the court on Motion of the plaintiffs to Approve Settlement Distribution to a mistakenly-excluded class member, Adrian Vicente Cordova. Plaintiffs explain that Cordova made timely contact with counsel, but payment was not made to him. The period within which to file a response to this motion has expired without the defendants having done so, although plaintiffs point out that, "Defendants do not consent to this motion."

Noting the defendants' refusal to consent thereto, the plaintiffs' Motion to Approve Damages Distribution to Class Member [DE-83] nevertheless is ALLOWED. Counsel for the plaintiffs are DIRECTED to distribute the appropriate amount of damages to Mr. Vicente Cordova in accordance with the Settlement Agreement [DE-79.2, ¶ 1], with the payroll taxes paid out of the undistributed funds so as to hold Mr. Cordova harmless. It further is ORDERED that plaintiffs' counsel distribute the

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remainder of the undistributed damages in a *cy pres* award as provided in the Settlement Agreement [DE-79.2, ¶ 3]. Finally, plaintiffs' counsel are DIRECTED to cause such amendment to the record herein as is necessary to reflect Mr. Cordova's addition as a class member and the distribution of his share of the settlement fund.

SO ORDERED.

This, the 21<sup>st</sup> day of June, 2011.

  
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JAMES C. FOX  
Senior United States District Judge